

We use cookies to customise content for your subscription and for analytics.

If you continue to browse Lexology, we will assume that you are happy to receive all our cookies. For further information please read our Cookie Policy.

# LEXOLOGY®

**Register now** for your free, tailored, daily legal newsfeed service.

Questions? Please contact [customerservices@lexology.com](mailto:customerservices@lexology.com)

**Register**

## Corporate Crime Monthly Update January 2018 | China, South East Asia & India

**China, Indonesia, Pakistan, Philippines, Singapore, South Korea, Vietnam** | February 1 2018

### China

#### 2017 corruption figures published

The Central Commission for Discipline Inspection ("CCDI") has published statistics revealing that:

- 159,000 people were punished for corruption or violating the Party's code of conduct;
- 122,100 separate cases were prosecuted;
- more than 61,000 officials were punished for contravening the frugality code;
- 1,300 fugitives returned to China (including 347 Party members and 12 from the 'red notice' list of 100 corruption suspects); and
- approximately RMB980 million (US\$151 million) was recovered by China's anti-corruption drive.

The CCDI further advised that over 800 suspects in corruption related offences are still at large. Approximately 70% of these 800 are suspected to be in Australia, Canada, New Zealand or the United States.

#### Local regulators waste no time deploying China's Anti-Unfair Competition Law

China's amended Anti-Unfair Competition Law ("AUCL") has been in force only a matter of weeks, yet the body charged with investigating potential AUCL violations, the State Administration for Industry and Commerce ("SAIC"), has already announced two investigations.

China's Nanjing and Hefei AICs are the municipal arms of SAIC reported to be investigating separate alleged breaches of the "acts of confusion" offences under Article 6. The investigations involve alleged theft of characters / writing style and misuse of brand names and product design, respectively. The investigations appear to capitalise in part on the looser criterion for confusion under the new law (sufficiency to mislead).

For full details in relation to the investigations and Article 6 of the AUCL, please see our e-bulletin [here](#).

## China's focus on pyramid schemes

A Chinese court has sentenced 21 people to jail in relation to a RMB15.6 billion (US\$2.4 billion) pyramid scheme. The scheme was alleged to have over 200,000 investors and promised annual returns of 250% on an RMB4,000 investment. Two individuals, Huang Dingfan and Cai Keyi, were sentenced to life in prison. Two others, Ding Wenping and Sun Shijia were given 12 and 10 years respectively, while the remaining 17 defendants were given sentences of 9 years or less.

Subsequently, China's public security ministry has announced that it intends to concentrate on pyramid schemes moving forward. It is expected that this will have a particular focus on digital pyramid schemes relying on cryptocurrencies such as Bitcoin.

**Herbert Smith Freehills publishes updated guide to anti-bribery and corruption in China** Kyle Wombolt, Robert Hunt and Anita Phillips of our Hong Kong office have recently published an updated guide to anti-bribery and corruption in China. This has been published by Lexology Navigator and addresses recent developments as well as the legal and regulatory framework. It includes topics such as the provision of gifts and hospitality, corporate liability, record-keeping and reporting, and whistleblowing. A copy of this guide can be found [here](#).

## Singapore

### Singapore to review anti-corruption and related laws

Singapore's Corrupt Practices Investigation Bureau has announced that it is currently undertaking a review of the Prevention of Corruption Act ("PCA"). It has stressed that this review is unrelated to recent high profile corruption cases, including the recent matter concluded by the US authorities involving a Singaporean entity (see our update [here](#)). No specific details about the nature of the review have yet been released, however criticism of the PCA has focused on the lack of whistleblower protections and the relatively low limit on penalties (currently SGD100,000 per charge).

Meanwhile the Minister for Home Affairs and Law, K. Shanmugam, has announced a proposal to introduce a deferred prosecution agreement scheme into the Criminal Procedure Code ("CPC"). The proposal would allow the prosecution to enter into an agreement in which charges would be dismissed on specified conditions. Such agreements would need to be approved by the High Court which must be satisfied that the agreement is in the interests of justice, and is fair, reasonable and proportionate. The agreements would only be available to companies (but not prosecuted individuals). If the proposal is adopted, it may suggest a greater focus on prosecuting companies in the future.

In addition, the Commercial Affairs Department, the financial crime-fighting unit within the police, has announced that it will be 'more proactively' targeting money obtained from white collar crime. Although not the unit that focuses on bribery and corruption offences, this is likely to have an impact on anti-corruption activity as the unit does have a focus on price rigging and money laundering.

## South Korea

### President Park indicted for accepting bribes from National Intelligence Service

The corruption allegations surrounding the ex-president of South Korea, Park Geun-Hye, has continued to develop this month. Park was impeached in December 2016 following a corruption scandal relating to the alleged offering of governmental favours to businesses.

She has now been charged with accepting a total of KRW3.65 billion (US\$3.4 million) from the National Intelligence Service (NIS) in bribes. The money was allegedly paid in installments of between KRW50 million and KRW200 million every month between early 2013 and mid-2016. The funds are claimed to have come from the blind budget of the NIS – a fund for espionage that does not require receipts.

Choi Kyung-hwan, the former finance minister has also been indicted for accepting bribes from the NIS. Choi is accused of accepting KRW100 million to help ensure the continuation of the blind budget account.

### Tumultuous month for cryptocurrency in South Korea

South Korea has become one of the most popular cryptocurrency trading centres over the past year. Bitcoin and other virtual currencies are traded readily and Bitcoin has been integrated within many ATMs. However, South Korea's authorities have taken significant steps in the past month to clamp down on the use of virtual currencies. The police and tax agencies have raided several large cryptocurrency

exchanges in Seoul. The raids came amidst allegations of tax evasion and that trading in cryptocurrencies is a form of gambling. South Korean financial authorities also advised that they were inspecting several banks offering virtual currency accounts due to concerns that the use of cryptocurrencies could result in a surge in crime.

Following the raids, various announcements were made by the South Korean government suggesting plans to ban cryptocurrencies, including Bitcoin. On the morning of 11 January 2018, the Minister for Justice announced plans to ban cryptocurrency trading. The minister's comments were followed by a near immediate drop in the value of Bitcoin by 4%. By the afternoon of 11 January 2018, over 55,000 South Koreans had joined a petition seeking to halt plans to implement a ban.

A similar announcement was also made by the Financial Supervisory Service. Subsequently, allegations have arisen that employees of the Financial Supervisory Service sold their cryptocurrency stocks just prior to the announcement. The Service confirmed that this was the case and this is currently being internally investigated under suspicions of insider dealing.

South Korea's presidential office has now clarified that an outright ban is just one option being considered. However it has also been confirmed that the use of anonymous bank accounts in cryptocurrency trading will be banned from 30 January 2018 in the hope that it will limit the use of virtual currency in money laundering and other crimes.

## **Vietnam**

### **Corruption crackdown escalates whilst new Penal Code expands domestic anti-corruption regime**

Vietnam has seen an increased crackdown on corruption related offences since the Communist Party took power in 2016. In 2017 Vietnamese courts held 220 corruption trials, an increase of approximately 21% from 2016. In this period the inspectorate has also reportedly uncovered 190 new fraud cases involving state funds.

The seriousness of Vietnam's crackdown can be seen in the PetroVietnam matter, being a large scale investigation into the mismanagement of funds in the state run PetroVietnam Construction. A total of 51 officials and bankers who have been accused of corruption and mismanagement leading to US\$69 million in losses. The trial in relation to 22 individuals has now been completed resulting in a range of sentences including life penalties for some and the death penalty for the chairman of PetroVietnam.

The sentencing has mostly recently included Xuan Thanh Trinh, the former President of PetroVietnam's gas division and first politburo member to be arrested in decades. He has been convicted of deliberately acting against the state's regulations on economic management causing serious consequences, and has been sentenced to life in prison.

Vietnam has also just bolstered its legislative regime with the introduction of a New Penal Code. This came into force on 1 January 2018 and covers a wide range of crimes, including bribery and related offences. The New Penal Code regulates bribery within the private sector and introduces corporate criminal liability for tax evasion and money laundering. The revisions bring Vietnam's domestic regime more in line with international laws. See our bulletin [here](#) for more details.

## **Indonesia**

### **Bitcoin is not a legitimate form of payment**

Bank Indonesia had previously advised that virtual currencies, such as Bitcoin, are not legitimate instruments of payment in Indonesia. Following the surge in Bitcoin at the end of 2017, Bank Indonesia has issued a fresh warning confirming that this continues to be the case.

Bank Indonesia further advised that ownership of virtual currency is highly speculative and risky as there is no authority responsible for regulating the currency and no underlying asset. It further poses a risk of being used for money laundering and terrorism financing. Bank Indonesia has therefore warned parties not sell, buy or trade virtual currency.

## **Philippines**

### **AMLC assess money laundering threat as high**

The Anti-Money Laundering Council (AMLC) believes that the Philippines has a medium vulnerability to money laundering but faces a high external threat. In coming to this view, the AMLC has considered proceeds generated by select predicate crimes, money-laundering trends and techniques, the prevalence of sectoral threats and external threats. The AMLC has also concluded that the Philippines faces a

high threat of terrorism and terrorist financing due to the violent incidents associated with terror/threat organisations. Companies looking to do business in the Philippines should bear this in mind in their operations.

## **Pakistan**

### **National Accountability Bureau pushes for finalisation of 1,000 outstanding cases and crackdown on offshore companies**

The National Accountability Bureau (NAB) has stated that there are currently over 1,000 corruption cases pending in Pakistan, which is said to represent a total misappropriation of Rs900 billion. The NAB Chairman, Justice Javed Iqbal, encouraged a speedy resolution of the matters and directed that all inquiries not resolved within the stipulated 10 month period should be completed at the earliest opportunity. He further stated that the 347 corruption cases currently before courts should seek early hearings.

In addition, the NAB has ordered an inquiry against 435 Pakistani politicians and businesspeople who have been identified in the Panama Papers as owning offshore companies in Panama and the British Virgin islands.

**Herbert Smith Freehills LLP** - Kyle Wombolt, Robert Hunt and Peter Godwin

Powered by

**LEXOLOGY.**